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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,303	01/17/2001	Stephen L. Biracree	1043.001	3844

22186 7590 01/25/2005

MENDELSON AND ASSOCIATES PC
1515 MARKET STREET
SUITE 715
PHILADELPHIA, PA 19102

EXAMINER

BURD, KEVIN MICHAEL

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,303

Applicant(s)

BIRACREE ET AL.

Examiner

Kevin M. Burd

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This office action, in response to the amendment filed 9/22/2004, is a final office action.

Response to Arguments

2. Applicant's arguments with respect to the rejections of claims 1-40 under 35 USC 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejection are made in view of Paik et al (US 5,311,546) in view of Endres et al (US 6,418,164).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-40 are rejected under 35 U.S.C. 103(a) as being obvious over Paik et al (US 5,311,546) in view of Endres et al (US 6,418,164).

The applied reference has a common assignee as well as common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of

this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Regarding claims 1, 19, 25-27 and 30, Paik discloses a method and apparatus for timing recovery of symbols in a received signal. The receiver is shown in figure 3. Samples of the filtered signal are taken over a time period and a phase error is determined (column 3, lines 55-57). The phase error is determined by an equalization algorithm such as the Constant modulus Algorithm (column 6, lines 36-42). The output of this algorithm is used in updating the filter coefficients of the equalizer (column 6, lines 44-47) to minimize the phase error or reduce the phase error below a threshold (column 3, lines 55-57). This adaptive equalization will continue for subsequent received samples.

Paik does not disclose generating the phase error of the sample from a received signal is based on the gradient of a blind cost criterion. Endres discloses an adaptive

equalizer system as shown in figure 3. Endres discloses an error signal is based on the gradient of a blind cost criterion of Busgang-class cost functions (column 2, lines 30-55 and column 6, lines 38-59). The Constant Modulus cost function is a Busgang-class cost function. It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the specifics of the CMA taught by Endres into the adaptive equalizer system of Paik. Endres provides more specific details about the function of the CMA and allows the system to correct for errors in the system.

Regarding claims 2, 3, 20, 21 and 40, the calculation of the blind cost term is based on a sample and the error term is the derivative of the cost function as shown in Endres: column 6, lines 38-59.

Regarding claims 4 and 29, signal quality is known and restored through the adjustments to the equalizers (Endres: column 2, lines 1-4). Figure 4 discloses the generating of more than one error terms R1 and R2.

Regarding claims 5, 6, 30 and 31, the mux of figure 4 (Endres) selects and outputs the error term.

Regarding claim 7, it is known to adjust equalizer parameters blindly using least mean squares (LMS) algorithm (Endres: column 2, lines 15-30).

Regarding claims 8 and 32, the quality measure is based on the signals received (column 2, lines 1-4).

Regarding claims 9-12, 17, 22-24 and 37, the Constant Modulus cost function is described in column 6, lines 38-59.

Regarding claims 13 and 28, the received signal is demodulated from a QAM signal (column 4, lines 53-63).

Regarding claims 14 and 34, the cost function is a Godard cost function (column 6, lines 50-52).

Regarding claims 15 and 35, the method is embodied in a processor of an IC (column 6, lines 59-67).

Regarding claims 16, 18, 36 and 38, the IC is in a television application (column 7, line 63 to column 8, line 7).

Regarding claim 33, the blind cost generator is included in an adaptive equalizer to adjust the equalizer coefficients as shown in figure 3.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Thursday 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin M. Burd
1/21/2005

KEVIN BURD
PRIMARY EXAMINER